UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,042	04/13/2001	Masanori Matsuura	OAC-011	5952

959   7590   01/21/2003

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA   02109

EXAMINER
MCLEAN MAYO, KIMBERLY N

ART UNIT	PAPER NUMBER
2187	

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Office Action Summary	09/835,042	MATSUURA ET AL.
	Examiner	Art Unit
	Kimberly N. McLean-Mayo	2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2001* .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 April 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). *2,4* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.   The enclosed detailed action is in response to the Information Disclosure Statements

submitted on July 30 and December 03, 2001, Priority Papers submitted on July 30, 2001 and the

Application submitted on April 13, 2001.

Drawings

2.   Figures 6-7 should be designated by a legend such as --Prior Art-- because only that

which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected

drawings are required in reply to the Office action to avoid abandonment of the application. The

objection to the drawings will not be held in abeyance.

Specification

3.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et

al. (USPN: 6,341,239) in view of Bapat (USPN: 5,862,326).

Regarding claims, 1-3, 5, 7-9, 11, 13-15, 19-20 and 22, Hayashi discloses a rewriting device

(Figure 1, Reference 14) for rewriting data stored in a non-volatile memory (Figure 1, Reference

20) of a vehicle controller (Figure 1, Reference 2), wherein the rewriting device is capable of

communicating with the vehicle controller (C 3, L 43-46; C 4, L 33-44). However, Hayashi does

not disclose the rewriting device configured to determine that communication between the

rewriting device and the vehicle controller is offline when no response is received from the

vehicle controller within a first determination time; wherein when a deleting/writing operation of

data is being performed, the rewriting device is configured to prohibit the determination of

offline until a second determination time elapses, the second determination time being greater

than the first determination time, wherein if no response is received from the vehicle controller

within the second determination time, which is the time necessary to delete data stored in the

memory/write data in the memory, it is determined that communication is offline. Bapat teaches

the concept of determining that communication between two devices (client/server) is offline (C

1, L 40-42 - a condition which is preventing the server from responding) when no response is

received from the server device within a first predetermined time period (TIMEOUT request - C

1, L 34-42); an wherein when an operation is being performed (an operation performed by the

server which is delaying a reply to the client's request), the client is configured to prohibit

determining that the server device is offline (C 1, L 42-45 - the client is prohibited in

determining or identifying the server device is offline by retransmitting the request until an

acknowledge is received from the server) until a second determination time elapses (TIMEOUT

reply – C 1, L 50-56, the second determination time being greater than the first determination

time (C 1, L 45-49, L 56-58 - the TIMEOUT request and the TIMEOUT reply values are

functions of time estimates and thus the TIMEOUT reply value is greater than the TIMEOUT request value when the estimation of how long the server should take to perform the desired operation is longer than the estimation of how long it should take to send an acknowledge back to the client), wherein if no response is received from the vehicle controller within the second determination time, which is the time necessary to perform an operation, it is determined that communication is offline (C 1, L 50-56). This feature taught by Bapat provides an efficient and reliable means of communicating between two devices by ensuring that the devices receive the information in which it is designed to receive and by identifying when the devices have not received the information in which it is to receive. Hayashi discloses communicating between two devices; however, Hayashi does not provide any means for ensuring efficient and reliable data communication. Hence, it would have been obvious to one of ordinary skill in the art to use Bapat's teachings in the system taught by Hayashi for the desirable purpose of efficiency and reliability.

Regarding claims 4, 10, 16-17, 21 and 23, the system taught by Hayashi and Bapat discloses acquiring an operation time prior to an operation and to set the second determination time to the operation time (Bapat – C 1, L 56-58, the operation time is acquired from the time estimation function); wherein when the operation is being performed, the determination of offline is prohibited until the second determination time that is set according to the operation time elapses (Bapat - C 1, L 42-45 - the client is prohibited in determining or identifying the server device is offline by retransmitting the request until an acknowledge is received from the server).

Regarding claims 6, 12, and 18, the system taught Hayashi and Bapat discloses an operation time

is calculated based on an estimate of how long it should take the device to perform the desired

operation (Bapat - C 1, L 56-58) and thus if the operation is a memory operation it is evident that

the estimated time required to perform the operation would be consider the size of the data and

the specification of the memory.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Fujita et al. – USPN: 6,256,226 – memory rewriting device.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kimberly N. McLean-Mayo whose telephone number is 703-308-

9592. The examiner can normally be reached on M-F (9:00 - 6:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Do Yoo can be reached on 703-308-4908. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-746-7329 for regular

communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-308-2100.

Kimberly N. McLean-Mayo
Examiner
Art Unit 2187

KNM

January 13, 2003